IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.10.2007

CORAM

THE HONOURABLE MR.JUSTICE ELIPE DHARMA RAO

AND

THE HONOURABLE MR.JUSTICE S.R.SINGHARAVELU

W.P.No.40473 of 2002

1. K.Selvam
2. P.Sengodan
3. P.Jayaraman
4. P.Tamilselvi
5. K.Banumathi
6. R.Elango
7. K.Kuzhandaivelu
8. M.Panneerselvam
9. V.Manoharan
10. C.R.Rajammal
11. S.Shenbagaselvi .. Petitioners

Versus

1. The District Collector,
   Erode District,
   Erode.

2. P.Shanmugasundaram
3. C.Susila
4. R.Muruganandam
5. R.Radhamany
6. C.Jagathambal
7. R.Padma
8. R.Natarajan
9. M.Chellamuthu
10. S.Murugesan
11. M.Venkatachalam
12. K.Kaliathal
13. T.Latha
14. S.Manimehalai
15. P.M.Radhakrishnan
16. P.Shanmugasundaram
17. C.Ashokan
18. R.Muthumeenakshi
19. A.Selvi
20. K.Mahalingam

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21.The Registrar,
Tamil Nadu Administrative Tribunal,
Chennai 104. ..Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India for the issuance of writ of certiorarified mandamus to call for the records relating to the order of the Tamil Nadu Administrative Tribunal at Chennai passed in O.A.No.1405 of 2001 dated 22.02.2002 and quash the same and further direct the 1st respondent to restore the seniority of the petitioners in the cadre of the Assistant as per the order of the 1st respondent dated 27.11.2000 issued in Na.Ka.No.131113/97/paa2.

For Petitioners : Mr.R.Muthukannu for
Ms.K.Dhanalakshmi

For Respondents : Mr.M.Dhandapani AGP (R1)

O R D E R
(Order of the Court was delivered by
Elipe Dharma Rao.J.,)

The writ petition is filed under Article 226 of the Constitution of India for the issuance of a writ of certiorarified mandamus to call for the records relating to the order of the Tamil Nadu Administrative Tribunal at Chennai passed in O.A.No.1405 of 2001 dated 22.02.2002 and quash the same and further direct the 1st respondent to restore the seniority of the petitioners in the cadre of the Assistant as per the order of the 1st respondent dated 27.11.2000 issued in Na.Ka.No.131113/97/paa2.

2. The brief facts of the case are as follows:- Respondents 2 to 20 were originally working in the cadre of Extension Officer/Manger, Assistant/Rural Welfare Officer Grade I in the Rural Development Department at Erode District. The writ petitioners were originally working in the cadre of Assistant. After the introduction of Single Service Rule, the persons working under the Ministerial services were integrated with the persons working in the Gramasevak service and seniority list was published as on 01.06.1979 based on the guidelines issued by the Government. In implementation of the single service rule, the writ petitioners were reverted from the post of Assistant to the post of Junior Assistant inasmuch as all of them were promoted temporarily after 01.06.1979 as Assistants and as per the feeder category seniority list, they were not eligible to continue in the cadre of Assistant for want of vacancy. During 1990, the individuals who are erstwhile Gramasevak servants filed O.A.No.1900 of 1990 apprehending reversion for want of test qualification which was newly prescribed viz., to the erstwhile Gramasevak servants. Both the writ petitioners and respondents

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2 to 20 were erstwhile ministerial servants for whom test was prescribed for promotion even prior to the introduction of single service rules. In O.A.No.1900 of 1990, the writ petitioners were figured as Respondents 2 to 12, who were impleaded themselves as party respondents. The Tribunal, on 17.05.1991, while disposing of the said original application has passed an order holding that Grama Sevaks and other Rural Welfare Officers who acquired the test qualification prior to 11.05.1990 need not be reverted and it was further held that promotion given to Grama Sevak etc. prior to 12.04.1984 need not be disturbed. The matter went to the Hon'ble Supreme Court in C.A.No.63-93/94, which extended the time limit to acquire test qualification for Grama Sevak categories till 04.05.1994. By virtue of the order passed by the Tribunal and the Hon'ble Supreme Court, Grama Sevak and others who were not qualified, got an opportunity to continue in the promoted posts, till they pass the test qualification on or before 04.05.1994. Accordingly, the first respondent refixed the seniority. Against the above said refixation of seniority, a representation was sent by the respondents/applicants on 27.12.2000 to restore their seniority and it was not considered. Hence they approached the Tribunal by filing O.A.No.1405 of 2001.

2. In the counter affidavit filed in the above original application, it is stated that in G.O.Ms.No.376, Rural Development & Local Administration Department, dated 15.03.1978, the Government constituted an official committee, comprising of the Secretary, Rural Development and Local Administration Department, the Director of Rural Development and Deputy Secretary to Government (Personnel) Rural Development and Local Administration Department for framing Single Service Rules for all the posts in Panchayat Development Department. In G.O.Ms.No.868, Rural Development and Local Administration Department, dated 30.05.1979, the Government ordered that pending formulation of Single Service Rules, all appointments made from 01.06.1979 to till the issue of Single Service Rules are purely temporary. Accordingly rules were framed by G.O.Ms.Nos.585,586, 587, 588 and 349, Rural Development and Local Administration Department, dated 12.04.1984. As per the Single Service Rules, the Ministerial Service and Grama Sevak Service were merged for single ladder promotion. The Grama Sevak Association as well as the individuals of the Grama Sevak Service filed petitions against the Single Service Rules at High Court, Chennai, which were dismissed by the High Court on 28.10.2006. Thereafter action was initiated to implement the above said rules. As per G.O.Ms.No.325, Rural Development and Local Administration Department, dated 26.04.1985, the Government has given 3 years period to pass the departmental test to the Grams Sevak Service personnel from 12.04.1984 to 11.04.1987 and informed that during the concession period, they are entitled for promotion. It is further stated that the writ petitioners who are respondents 2 to 12 in the original application were promoted as Assistants in the year 1985 and 1986 and they were all fully qualified to hold the post at the time of promotion. But by the order of the District Collector, in order to implement Single Service Rules in Erode District, 59 qualified Assistants were reverted as

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Junior Assistants and 59 unqualified Grama Sevake Grade II were promoted as Assistants/Rural Welfare Officers Grade I as per the inter-se-seniority list with a condition to pass the Departmental test as per the instructions stipulated in G.O.Ms.No.325, Rural Development and Local Administration Department, dated 26.04.1985. But the writ petitioners who are qualified to hold the post of Assistants (Ministerial Service Personnel) were reverted on the ground that they were not promoted as per the integrated seniority. It is further stated that the period of 3 years to pass the test qualification was also extended upto 11.05.1990 to the Grama Sevak Personnel. Out of 59 persons Grama Sevak even though not qualified were promoted and 22 Personnel have not passed the Departmental test by 11.05.1990 were reverted to the post of Junior Assistants cadre. Against that, O.A.Nos.1900 and 1904 of 1990 were filed before the Tamilnadu Administrative Tribunal and the Tribunal passed an order and the matter went upto Supreme Court, which extended the time to pass the test qualification upto 1994. In the meanwhile, as per G.O.(3D) No.41, Rural Development (E4) Department, dated 23.10.1996, and as per the letter of the Government dated 14.10.1992 and 11.03.1993, the seniority list of Assistant/Rural Welfare Officer Grade I for the period from 01.06.1979 to 1989 has been issued by the District Collector, Erode through his proceedings dated 10.12.1996 and after considering the request of the writ petitioners, their seniority has been fixed in the year 1986 in the above list according to the Single Service Rules and instructions of the Government as per District Collector Proceedings dated 27.11.2000, which is impugned in the present Writ petition.

3. The Tribunal, on consideration of the facts and circumstances of the case and the comparative table of the applicants and the writ petitioners/respondents 2 to 12 in the original application, set aside the order of refixing the seniority of writ petitioners, against which the present writ petition has been filed.

4. Heard Mr.R.Muthukannu, learned counsel for Ms.K.Dhanalakshmi, learned counsel for the writ petitioners and Mr.Dhandapani, learned Special Government Pleader for the respondents.

5. In the counter affidavit in paragraph 15 and 16, the details of the date of passing of departmental tests, promotion etc. of the writ petitioners as well as respondents are given, which reads as follows:-

> "15. At present the respondents 2 to 12 are working as Assistant/Extension Officers. The date of passing of departmental tests, promotion to Assistant cadre and Extension officer cadre of respondents 2 to 12 are as follows:-

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S. No.	Name of the respondents	J.A.cadre seniority	Date of passing of Dept.tests	Promoted as Asst./Date of Joining	Promoted as Asst. Again/Date of Joining	E.O. Promotion date
1	P.Sengodan	481	11/85	5/9/86	1/8/91	--
2	K.Selvam	394	11/85	5/9/86	21/9/90	1/9/99
3	P.Jayaraman	478	11/85	5/9/86	5/8/91	--
4	P.Tamilselvi	498	5/85	23/12/85	1/8/91	--
5	K.Banumathi	511	11/85	5/9/86	22/7/91	--
6	R.Elango	513	11/85	6/9/86	1/8/91	--
7	K.Kulandaivelu	556	5/82	6/9/86	1/8/91	--
8	M.Panneerselvam	386	5/85	3/1/86	20/9/90	1/3/00
9	V.Manoharan	392	11/83	6/6/85	19/9/90	1/3/00
10	C.R.Rajammal	326	5/85	23/12/85	30/9/90	6/9/99
11	S.Senbagaselvi	385	5/85	10/1/86	20/9/90	1/9/99

16. Details about the applicants regarding date of passing of departmental tests, promotion to Assistant Cadre and Extension Officer cadre are furnished as under:-

S. No.	Name of the Petitioners/ Applicants	J.A. cadre senio-rity	Date of passing of Dept. tests	Promoted as Asst./ Date of Joining	Promoted as Asst. Again/Date of Joining	E.O. Promotion date
1	P.Shanmugasundaram	477	5/87	1/8/91	11/9/92	..
2	C.Susila	410	5/90	31/7/91	..	18/8/2000
3	P.Muruganantham	487	5/89	31/8/92	...	..
4	M.Radhamani	399	5/87	21/9/90	27/7/91	3/11/99
5	C.Jagadambal	471	5/89	1/11/91	...	--
6	R.Padma	474	5/89	27/7/91	7/9/92	--
7	R.Natarajan	497	5/87	1/8/91	17/10/92	--
8	M.Chellamuthu	501	11/88	1/8/91	14/1/93	..
9	S.Murugesan	504	5/89	14/1/93	..	..
10	S.Maheswari	557	11/86	25/10/91	..	..
11	M.Venkatachalam	468	5/87	31/10/91	..	..
12	K.Kaliathal	486	5/88	20/8/92	..	--
13	T.Latha	476	11/89	27/7/91	31/8/92	..

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12	K.Kaliathal	486	5/88	20/8/92	..	--
14	S.Manimehalai	536	11/91	4/3/94	..	--
15	P.M.Radhakrishnan	470	5/87	1/11/91	..	--
16	P.Shanmugasundaram	483	5/87	14/8/92	..	--
17	C.Asokan	395	5/87	21/9/90	..	1/3/00
18	R.Muthumeenakshi	426	11/85	14/2/91	..	1/3/00
19	A.Selvi	424	5/88	29/7/91	..	1/3/00
20	K.Mahalingam	411	5/89	27/7/91	..	1/3/00

6. It is seen from the comparative table that the writ petitioners have already passed the departmental tests between November 1983 and May 1985 and were also promoted as Assistants and joined between 23.12.1985 and 10.01.1986 and promoted as Assistants again between 19.09.1990 and 01.08.1991, whereas respondents 2 to 20 passed the departmental tests only between November 1986 and November 1991 and promoted as Assistants between 21.09.1990 and 14.01.1993.

7. The writ petitioners have already qualified by passing the qualifying test as early as in 1985 and on considering that they are eligible, they were promoted in the post temporarily. At that point of time, the respondents/applicants have not qualified and have not passed the test qualification. Even then, on the ground of integrated seniority service rules in both the wings of the said department, the qualified persons were reverted and unqualified Grama Sevaks were promoted giving time to pass the qualifying test initially for a period of three years upto 1987 and thereafter upto 1994. Even from out of 59 persons, 22 were not qualified. But, the only ground offered for reverting the writ petitioners is that no panel was prepared as per the integrated seniority service rules. Therefore, after fixing the seniority, the writ petitioners were not given proper place in the seniority list. As per their first promotion as they are already qualified, having passed the test qualification, the petitioners made a representation, which was considered by the respondent Government and refixed their seniority, against which the respondents 2 to 20 made a complaint, which cannot be entertained since even as per the admitted case of the respondent Government, promotions were given to the writ petitioners in the year 1985-86, when they are having the required qualification and eligible for promotion. But, the respondents/applicants who were not qualified, were promoted by virtue of the introduction of integrated service rules, after reverting the qualified persons, viz., the petitioners giving an opportunity for the respondents/applicants to acquire the test qualification after a long period of 10 years. Therefore, we are of the view that great injustice has been done to the writ petitioners and they are made to suffer even though they have acquired the test qualification prior to the respondents. When the respondents have not acquired the test qualification, they are not entitled to be promoted. But, the Government

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has promoted them, after giving 10 years time to acquire the qualification, which opportunity was also utilised by some of them since and then some of them have not acquired the qualification. The writ petitioners who have acquired the test qualification prior to the respondents should not be allowed to suffer at the instance of the unqualified persons. Hence, we are of the view that the order passed by the District Collector is sustainable in law. Therefore, the reasons given by the Tribunal in interfering with the order passed by the District Collector in refixing the seniority of the writ petitioners is liable to be set aside and accordingly set aside. The writ petition is allowed. No costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

rg

To
The District Collector,
Erode District,
Erode.

+ 1 CC To Mr. R.Muthukkannu, Advocate SR NO.64255

+ 1 CC to the Government Pleader SR NO 64371

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